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DRAFT MEETING SUMMARY (v.1)

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**HANFORD ADVISORY BOARD
BUDGETS AND CONTRACTS COMMITTEE**

***March 14, 2002
Richland, WA***

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This is only a summary of issues and actions in this meeting. It may not represent the fullness of ideas discussed or opinions given, and should not be used as a substitute for actual public involvement or public comment on any particular topic unless specifically identified as such.

Introduction

The Committee began the meeting by adopting meeting summaries from its January 28, February 6, and February 13 meetings.

Update on River Corridor Contract

Clark Gibbs, U.S. Department of Energy-Richland Operations Office (DOE-RL), outlined the changes to the River Corridor Contract Request for Proposal (RFP) and the acquisition schedule. Changes to Business Conditions, Statement of Work (SOW), Contract Clauses, Evaluation Criteria, Instructions to Offerers were explained. Specifically, Clark emphasized that changing Evaluation Criteria from “contractor assumption of risk” to “contractor enhancements” encourages offerers to propose changes that are beneficial to the government, and opens the door for offerers to make the contract better.

Keith Smith asked what would happen with this contract if a lengthy negotiation process becomes necessary. Clark Gibbs replied that any deviations may make a proposal unacceptable for award without discussion, and this is clearly articulated in the RFP.

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Maynard Plahuta expressed concerns about potential conflicts of interest if teaming partners can be party to the selection of subcontractors. Clark Gibbs's response was that with a sealed bid process, those conflicts should not be an issue.

Harold Heacock asked how much competition DOE expects. According to Clark Gibbs, they are expecting some competition, but cannot be more specific.

Clarification of Fiscal Year 2003 and Fiscal Year 2004 Budgets

Harold Heacock began the conversation by asking Bob Rosselli, DOE-RL, to comment on the discrepancy between the budget numbers in the state's press release and those in the DOE release regarding the allocation of funds from the DOE-Headquarters (DOE-HQ) accelerated cleanup fund to Hanford for Fiscal Year (FY) 2003. In addition, Harold asked about implementation details from the recently signed Letter of Intent (LOI).

Bob Rosselli explained that the difference between the state and DOE numbers is due to the state utilizing all the Hanford money, including the security budget, DOE-HQ programs, and grants to tribes. DOE did not include those numbers. Altogether, about \$2 billion will be coming to the site. This figure includes \$433 million from the accelerated cleanup fund [\$204 million for DOE-RL and \$229 million for the U.S. Department of Energy-Office of River Protection (DOE-ORP) to restore baselines].

Harold Heacock asked if the budget would be adequate for full regulatory compliance. Bob Rosselli replied that, yes, DOE will meet all Tri-Party Agreement (TPA) agreements, though the fine details are still in negotiation and they are still working on figuring out how to position for the next 4-5 years. Bob does not believe that compliance will drop or anything will be deferred in order to accelerate.

Maynard Plahuta asked if the \$433 million would survive Congressional review. Bob Rosselli replied that the LOI calls for an action plan, to be finalized by August 1 that outlines specific actions affecting acceleration. That plan indicates to the Office of Management and Budget (OMB) that the promises can be met.

Steve Wiegman, DOE-ORP, added that DOE-ORP is looking at the full suite of internal and external requirements and how they are driving costs. The acceleration plan is closely tied to the Cleanup, Constraints, and Challenges Team (C3T) process.

Bob Rosselli explained that the plan of action goes out to 2035, with a phased approach that will be refined as time goes on. Steve Wiegman added that everything they are planning is linked, as they want to be productive in October if the funding is sustained. According to Bob, OMB is on board with this approach.

Bob Rosselli went on to say that the initiatives in the LOI represent a starting point for outyear funding. With the need to boost funding to meet acceleration, DOE is looking at multi-year budget requests. Though it will not happen this year, the Administration is

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committing for the next 6-7 years. Mike Wilson, Washington State Department of Ecology (Ecology), emphasized that the real news here is that OMB and the Administration are buying in for a long-term funding commitment. Steve Wiegman pointed out that DOE has to be prepared for acceleration, which means new accountability. To Steve, this is an opportunity to succeed or fail big.

Harold Heacock asked if there were any plans for what to do if the allocations go back to the traditional style. According to Bob Rosselli, they have best of both worlds right now: either the full baseline will be funded or there will be more funding for accelerated cleanup.

Mike Wilson reported on the Tri-Party Agreement agency briefing on the FY 2003 budget and the LOI. In spite of confusing and conflicting press, the LOI is an agreement to continue working with DOE locally through the C3T process (as they have been for the last six months) to align the baseline contracts with the TPA. The state does not believe it has given anything away in the LOI: there is no reduction in cleanup and the regulatory authority under the TPA remains. What they have agreed to in the LOI is to talk in certain areas rejected in the past. Mike went on to say that Ecology never entered the discussion with the expectation of funding guarantees, and there were never any dollar figures specifically attached to this agreement.

Dave Einan, U.S. Environmental Protection Agency (EPA), mentioned that details are still coming out, and all of the numbers are still very fluid at this point.

Mike Wilson admitted that DOE's presentation to regulators probably did not meet the requirements in the TPA, but acknowledged that Ecology knows it has to be flexible. According to Mike, DOE probably could not meet the letter of the TPA anyway since much of the language is now obsolete.

Dave Einan pointed out that since the river corridor contract is already out, it would likely get funded under any of the scenarios. Spent fuel is also likely to be funded as a priority.

Dave Einan asked if DOE-RL's putting more emphasis on acceleration than DOE-ORP would cause problems at DOE-HQ. Steve Wiegman answered that, from DOE-ORP's perspective, they still have to be compliant. Even accelerations require that the work be done. Steve said that the briefing was based on the premise that the baseline contracts are minimal to manage safely. The first thing to do is restore the baseline; then, to pursue acceleration, they can take whatever share they get of the \$433 million and put it into the initiatives in the LOI (especially early closure and alternative treatment techniques for low-activity waste). Steve also acknowledged that there is still planning work to do: by May they have to identify where they are headed, and by August have a precise plan.

Keith Smith asked if DOE is still operating on old baselines for outyears. Steve Wiegman answered that they plan to reestablish a new target baseline and be clear on the constraints.

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Melinda Brown, Ecology, noted that the briefing did not meet TPA requirement 149-D. Ecology has details to follow up on regarding the scope of work at DOE-RL and DOE-ORP especially concerning what work would be lowered in priority at DOE-RL. Melinda said that Ecology does not have any major concerns beyond just figuring out this new way of doing business. Joy Turner, Ecology, interjected that a major concern is getting through the Congressional process to get the funding. Melinda agreed that until the appropriations bill is written and passed, nothing is real.

Budget Workshops

Yvonne Sherman, DOE-RL, gave the committee dates for the four planned public budget workshops on FY 2004: April 24 in the TriCities; April 25 in Seattle; May 1 in Hood River; and May 2 in Portland. Yvonne will confirm those dates as soon as possible.

Bob Rosselli pointed out that May 6 is when FY 2004 preliminary budget input is due from DOE-RL to DOE-HQ. He feels the timing of the workshops is squeezing them, as DOE-RL needs to spend time working on its plan of action.

Peter Bengston, Pacific Northwest National Laboratory (PNNL), agreed that the workshop timing is problematic and suggested that they may want to wait and do a more detailed briefing with this committee before early June. DOE-ORP does not have a precise submission date yet, but it will probably be May 6 also. Maynard Plahuta articulated the dilemma: going ahead with an early workshop could mean providing advice that may not be meaningful because all the information will not be in place; waiting to get the information may mean it is too late for the input to matter.

Bob Rosselli clarified that August 1 is the final action plan deadline, and argued that the time between May and August is the valuable time for comment, before any plans are finalized. Between now and May 1, things could change daily.

Gerry Pollet advocated keeping the workshops where they are, arguing that it is better to get early input than to delay, especially knowing that there will be controversy. Gerry also felt that a June committee workshop has no purpose, since it will be too late to comment on the May 6 submittal. He would like a briefing in April and felt it would be a loss not to have this interaction before the public workshops.

Both Bob Rosselli and Peter Bengston felt that they would not be in a position to provide something meaningful before May. In addition, they will likely not be available at all in April to support a Budgets and Contracts Committee meeting while DOE is working on its plan for May submittal.

Top-to-Bottom Review

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Harold Heacock suggested the committee try to synthesize the long list of questions into 12 or so points that can go forward to the full Hanford Advisory Board (HAB) with advice for the April Board meeting.

Ruth Siguenza observed that the questions generally fell into the following general categories:

- \$800 million fund
- Work priorities
- Risk reduction, waste management
- Contracts
- Local communities and stakeholders
- Vitrification plant
- Regulatory issues
- Compliance and TPA
- Miscellaneous: timing, funding, agreements
- Tanks
- Science and technology

Maynard Plahuta noted some confusion between the budget comments and the Top-to-Bottom Review comments. Harold Heacock pointed out that the Top-to-Bottom Review is not a budget document; it is a process document. Gerry Pollet agreed, adding that he feels the committee ought to be saying to DOE that the budget should be irrelevant to the Top-to-Bottom Review, and if they want a dialogue on the Review's points, there should be no linkage to the budget.

The committee crafted the following list of points:

1. Like the risk-based approach as a concept. Need to examine the premise that the standards for original agreements are unrealistic. The risk basis for proposals regarding high-level waste and transuranic are not explained in the Top-to-Bottom Review.
2. The sites across the complex are different, and the stakeholder values at each site are different. One size does not fit all.
3. There needs to be a public dialogue beyond Hanford, especially regarding movement of waste in the complex and reclassification of waste.
4. Changes to cleanup programs, including tanks, need to be risk-based and consistent with regulatory requirements and cleanup agreements. For example, consideration of a grout alternative for treatment and disposal of high-level tank waste should be evaluated based on risk, regulatory requirements, and existing cleanup agreements.
5. National Environmental Policy Act (NEPA) requirements - put with risk-based cleanup.
6. Reclassifying waste would be tough to do. We do not want to decrease environmental protection or protection of human health.
7. The Top-to-Bottom Review has no consideration of risks other than radionuclides, e.g. chemicals.
8. The TPA should not be revised/abrogated except through the appropriate process. Changes need to be risk-based.

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9. The Top-to-Bottom Review calls for supplanting Resource Conservation and Recover Act (RCRA) authority with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). It is imperative to maintain a State regulatory role. See #12 in the letter of intent that states: "Nothing in this letter of intent modifies any of the rights, authorities, or obligations currently stated in the Tri-Party Agreement."
10. The Top-to-Bottom Review does not recognize, define, or outline a method to identify and address urgent risks. Assuming we can define risk per the letter of intent. We expect this to be honored.
11. Concern with the Top-to-Bottom Review defining end states for the site in certain areas.
12. It is essential that DOE-HQ Environmental Management (EM) recognize its responsibility to support and ensure that EM science and technology needs assigned to the DOE Office of Science are adequately funded, customer-driven, and driven to get useable results.
13. Lack of realization of the importance of support activities to affect accelerated cleanup, e.g., worker training and infrastructure.
14. Performance-based contracting will only work as long as there is adequate funding.
15. State, community, and stakeholder input did not feed into the Top-to-Bottom Review. State, community, and stakeholder input are not seen as integral to the cleanup mission.
16. Local impacts are not recognized in the Review. Need to consider local community impacts.

The path forward is for Gerry Pollet and Maynard Plahuta to compile these points into draft advice. The committee will work on the edits on a conference call on Tuesday, March 19, and have a draft of the advice ready for the April HAB packet.

Committee Business

Yvonne Sherman asked for closure from the committee on the budget workshops dates. After more discussion, the committee concluded that the Public Involvement and Communication Committee and the Executive Issues Management Group should provide additional input regarding what is appropriate.

Harold Heacock will inform the Executive Issues Management Group that there will be no budget advice, but there will be draft advice on the Top-to-Bottom Review coming from this committee for the April HAB meeting.

Handouts

- Draft meeting summaries
 - January 28 Budgets and Contracts Committee joint meeting with the Tank Waste Committee

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- January 28 Budgets and Contracts Committee joint meeting with the River and Plateau Committee
- February 6 Budgets and Contracts Committee
- February 13 Budgets and Contracts Committee
- DOE press release on Hanford allocations from the accelerated cleanup fund
- State of Washington press release on Hanford allocations from the accelerated cleanup fund
- Tri-Party Agreement Agencies Letter of Intent, March 5, 2002
- Draft compilation of Questions on the Budget with comments from M. Plahuta and G. Pollet
- Draft compilation of questions on the Top-to-Bottom Review
- Additional comments on the Top-to-Bottom Review from the River and Plateau Committee
- Budgets and Contracts Committee work planning table

Attendees

HAB Members

Jim Curdy	Harold Heacock	Gerry Pollet (phone)
Jim Cochran	Charles Kilbury	Keith Smith
Jim Hagar (phone)	Maynard Plahuta	Dave Watrous

Others

George Champlain, DOE-RL	Melinda Brown, Ecology	Allyn Boldt
Clark Gibbs, DOE-RL	Joy Turner, Ecology	Peter Bengston, PNNL
Bob Roselli, DOE-RL	Mike Wilson, Ecology (phone)	Chris Chamberlain, Nuvotec
Yvonne Sherman, DOE-RL	Dave Einan, EPA	Kristy Collins, Critique
Bob Tibbatts, DOE-RL		Lynn Lefkoff, EnviroIssues
Steve Wiegman, DOE-ORP		Nancy B. Meyers, BHI
		Ruth Siguenza, EnviroIssues
		John Stang, Tri-City Herald
		Barb Wise, Fluor Hanford